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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,943	02/11/2004	Brian Robert McClain	SJO920030045US1	4264

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EXAMINER

NEWTON, JARED W

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/776,943

Applicant(s)

MCCLAIN ET AL.

Examiner

Jared W. Newton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4,6,8 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7 and 9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/11/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office Action is in response to the amendment filed on January 4, 2006, by which a response to the notice of failure to completely respond filed December 23, 2005. Applicant is thanked for the timely reply.

#### ***Election/Restrictions***

Claims 4, 6, 8, and 13-20 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention (claims 13-20) and a nonelected species (claims 4, 6, and 8), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on January 4, 2006.

#### ***Specification***

The disclosure is objected to because of the following informalities:

Line 4 of Page 13 should reference character 211 as opposed to 201.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

Claims 3 and 12 are rejected under the second paragraph of 35 U.S.C. 112 as indefinitely claiming the subject matter that the applicant regards as his invention.

*In regard to the claims*, the positive recitations below render the above claims indefinite:

- "...first computing device comprises..." on line 1 of claim 3;
- "...second computing device comprises..." on line 2 of claim 3;
- "...second computing device comprises..." on lines 1 and 2 of claim 3;

In particular, applicant functionally sets forth the computing devices in line 1 of claim 1 through the recitation "...for compactly storing computing devices..." and then applicant improperly seeks to link the functionally recited structure of the computing devices to the positive structure of the apparatus. Thus, the metes and bounds of the claims cannot be properly ascertained since one would not know whether the computing devices are being positively claimed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 7, and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,621,692 to Johnson et al.

Johnson et al. disclose an apparatus for compactly storing computing devices, comprising: a frame 50 having upper and lower support portions. Johnson et al. further disclose said lower support portion shown as the bottom of tray 100 (see FIG. 6) adapted to receive a first computing input device (e.g. a keyboard, mouse, etc. (see Column 1, Lines 11 and 12) 56 of a computer, and said upper support, shown as the

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upper extending L-shaped portion of tray 100 through which thumbscrews 102 are secured, (see FIG. 5) adapted to support a second computing output device (display monitor) 58 (see FIG. 2). Johnson et al. further disclose a mounting mechanism connected to said upper and lower portions, wherein said mounting mechanism comprises base plate 62, hinges 148, guides 134, and rollers 140 (see FIG. 2), adapted to transition the upper and lower support portions, and their respective computing devices between a vertical storage position (see FIG. 1), and an access position (see FIG. 2) wherein at least portions of the upper and lower supports are in a non-vertical orientation.

Johnson et al. further disclose the overall apparatus comprising a computer equipment rack, including a rack mount frame 22 having a face 26-B, wherein the mounting mechanism connects to frame member 26-A, so that the vertical storage position places the upper and lower supports behind the face (see FIG. 1).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 7, and 9-12 rejected under 35 U.S.C. 103(a) as being unpatentable over '692 to Johnson et al. in view of US Patent No. 6,504,707 to Agata et al.

Agata et al. disclose a portable computing device comprising an upper support lid 16 for housing a computer screen 24 in a non-vertical orientation (see FIGS. 2 and 6). Agata et al. further disclose a lower computer device comprising a keyboard and an integrated mouse (see FIG. 2). Agata et al. do not disclose the overall storage rack, the mounting mechanism, the lower support, or the sliding storage capability. Johnson et al. disclose the apparatus set forth above. The Johnson et al. and Agata et al. references are analogous art because they are from the same field of endeavor—folding apparatuses for storing and using computing devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the device as set forth by Agata et al. in place of the frame, and attached to the mounting base (which would provide a lower support) within the rack as disclosed by Johnson et al. Johnson sets forth the motivation for storing any of various laptops within his apparatus. It would be an obvious substitution to store the laptop as set forth by Agata et al. Further motivation would be to provide the rack as set forth by Johnson et al. with a more versatile computing device capable of adjusting height to meet users needs as set forth by Agata et al.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US Patent No. 6,892,650 to Baloga et al.
- US Patent No. 6,842,334 to Smith et al.

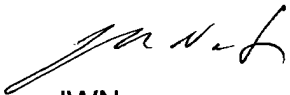
- US Patent No. 6,739,096 to Feldpausch et al.
- US Patent No. 6,554,142 to Gray
- US Patent No. 6,386,120 to Nelson et al.
- US Patent No. 6,283,429 to Markovich et al.
- US Patent No. 6,076,905 to Wilson
- US Patent No. 6,061,966 to Nelson et al.
- US Patent No. 5,673,169 to Wicks
- US Patent No. 5,588,259 to Kolefas
- US Patent No. 5,537,290 Brown et al.
- US Patent No. 4,180,298 to Borgerson, Jr.
- US Patent No. 2,812,067 to Gussack
- US Patent No. 2,588,163 to Ristenpart et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JWN

January 27, 2006



RICHARD E. CHILCOTE, JR.  
SUPERVISORY PATENT EXAMINER